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SUBJECT: HONDURAN CONGRESS LOOKS TO REPEAL IMMUNITY FOR PUBLIC OFFICIALS

REF: STATE

1. (U) SUMMARY: On July 9, 2003, leaders of the major political parties in the Honduran National Congress announced their intention to repeal the general immunity granted congressmen and other high ranking public officials under the Honduran Constitution. The initiative comes after the recent arrests of two elected Honduran officials on charges of narcotrafficking. Initially, no congressmen or other government officials spoke out against the proposed change to the Constitution, but in the days since the announcement a number of public office holders stated that repealing all forms of immunity would be counterproductive. END SUMMARY

The Process Begins

2. (U) On July 9, 2003, leaders of the major political parties in the Honduran National Congress announced their intention to repeal the general immunity granted congressmen and other high ranking public officials under the Honduran Constitution. During a joint press conference, leading members of the National Party (PN), the Liberal Party (PL), and the Christian Democrat Party (DC) said Congress will repeal Article 200 and Section 14 of Article 205. These two portions of the Honduran Constitution grant a long list of public officials immunity from criminal prosecution, and from other requirements placed on the general population.

The Articles

3. (U) Article 200 of the Honduran Constitution grants members of the National Congress immunity from court summons, all manner of searches (i.e. house, vehicle, etc...), detentions, lawsuits, and court judgments. Section 14 of Article 205 extends these immunities to the President, presidential appointees, members of the Supreme Court, members of the National Elections Tribunal, and a long list of other political appointees. A bill to repeal these two portions of the Constitution has already been sent to the Rules Committee for review.

Voices For and Against

4. (U) The President of the National Congress, Porfirio Lobo Sosa (PN), said that the PN, PL, and DC are firm in their decision to repeal immunity, and that he expects the other political parties to follow suit. Speaking on Frente a Frente, a politically focused morning television show, the Vice President of Congress, Ramon Velasquez (DC), said repealing these two portions of the Constitution would make public officials and the average citizen equal before the law. PL Secretary General, and member of Congress Jamie Rosenthal said that by repealing these sections of the Constitution, Honduran members of the Central American Parliament would also be stripped of their immunity. President Ricardo Maduro, Supreme Court President Vilma Morales, and other high-profile individuals, such as Cardinal Oscar Andres Rodriguez, also voiced their support for a repeal of immunity immediately following the congressional leadership's press conference.

5. (U) However, not all Honduran officials concur. The first public official to question the repeal initiative was Assistant Attorney General Juan Arnaldo Hernandez of the embattled Public Ministry. He said that certain government agencies and public officials will always need immunity, because without it they would become mired in politically-inspired litigation. Minister of Public Security Oscar Alvarez said that Congress should carefully study the implications of lifting immunity, because those combating narcotrafficking need some form of protection. Similarly, President of the Honduran Court of Claims (the court responsible for hearing cases against the government), Renan Sagastume, told the press that public officials should retain immunity which relates to their official duties. Even President Maduro, who had initially voiced unconditional support for the initiative, tempered his stance by saying

presidential immunity should be limited to cover only those actions directly related to official duties.

On the Right Path

16. (SBU) COMMENT: The initiative to repeal public officials, immunity is a significant step in the right direction for efforts to end the abuse of state power in Honduras. It also demonstrates just how radioactive the issue of Congressional immunity has become. On one hand, the public condemnation that accompanied the recent arrests of two Congressmen on unrelated narcotrafficking charges has made it impossible for the National Congress to ignore calls for reform. On the other hand, some elements of the Congress want no real reform to take place. The initiative to repeal all immunity for all government officials is the result of these two competing desires, because while outwardly appealing to public sentiments, the proposal is so problematic from a democratic-governance point of view that it is unlikely to become law. Even so, given the current political climate, some type of reform will likely be enacted. END COMMENT
Palmer